



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20350

SECNAVINST 5430.25D
OGC
1 December 1977

SECNAV INSTRUCTION 5430.25D

From: Secretary of the Navy

Subj: The General Counsel of the Navy; assignment of responsibilities

Ref: (a) SECNAV Instruction 5430.18

1. Purpose. To delineate the responsibilities and duties of the General Counsel of the Navy and the organization of the Office of the General Counsel of the Navy.

2. Cancellation. SECNAV Instruction 5430.25C of 21 June 1966 is hereby superseded. SECNAV Notice 5430 of 12 March 1973 is incorporated herein and cancelled. The purpose of SECNAV Instruction 5401.1 of 8 December 1972 having been achieved, it is hereby cancelled. Reference (a) remains in effect.

3. Responsibilities of the General Counsel

a. Advice to the Secretary and the Civilian Executive Assistants. The General Counsel of the Navy, a Civilian Executive Assistant appointed by and directly responsible to the Secretary, is the principal legal advisor to the Secretary. He shall provide legal advice, counsel, and guidance to the Secretary and the other Civilian Executive Assistants on any issue or matter that they may direct to him, and may, in addition, volunteer his advice, counsel, and guidance to these same officials upon any matter that he determines should be brought to their attention. He shall also be responsible for furnishing all necessary legal advice, counsel, and guidance to the staffs of the Secretary and the other Civilian Executive Assistants. The General Counsel shall perform such other duties as the Secretary may direct. Nothing herein is intended to infringe in any way upon or interfere with the responsibilities of the Judge Advocate General for the administration of military justice and such other matters as may be assigned to the Judge Advocate General by statute or by the Secretary of the Navy.

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b. Business and commercial law. The General Counsel shall be responsible for providing legal services throughout the Department of the Navy in the field of business and commercial law, including, but not limited to, all legal services relating to:

(1) The acquisition, custody, management, transportation, taxation, and disposition of real and personal property, and the procurement of services, including the fiscal, budgetary and accounting aspects thereof; excepting, however, tort claims and admiralty claims arising independently of contract;

(2) Operations of the Military Sealift Command, excepting tort and admiralty claims arising independently of contract;

(3) The Office of the Comptroller of the Navy;

(4) The Naval Data Automation Command;

(5) All matters in the field of patents, inventions, trademarks, copyrights, royalty payments and similar matters;

(6) Procurement aspects of foreign military sales, co-production and co-operative research and development and related agreements, NATO standardization agreements, and matters relating to the Arms Export Control Act.

c. Patent legal matters. All legal matters in the patent field submitted to the Secretary, the Under Secretary, an Assistant Secretary, the Attorney General of the United States or the Comptroller General of the United States shall be forwarded via the General Counsel for review and comment.

d. Civilian personnel law. The General Counsel shall be responsible for providing legal services in the field of civilian personnel law, including labor-management relations and equal employment opportunity matters (1) at Headquarters, Department of the Navy, and (2) in coordination with the Judge Advocate General, throughout the remainder of the Department of the Navy.

e. Contract claims and litigation. The General Counsel shall be responsible for providing guidance and direction to Department of the Navy procuring activities in the proper method of evaluating, processing and documenting contract claims asserted by or against the Department of the Navy.

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f. Litigation. The General Counsel shall be responsible for:

(1) The conduct of all Department of the Navy litigation before the Armed Services Board of Contract Appeals.

(2) With the concurrence of the Attorney General, the conduct of all other Navy litigation arising out of matters referred to in subparagraphs 3.b., c., d., and e. of this Instruction.

(3) Such other litigation matters as the Secretary may direct.

g. Liaison with Judge Advocate General and Other Departments and Agencies. The General Counsel will maintain a close working relationship with the Judge Advocate General on all matters of common interest. He will be kept informed by the Judge Advocate General of the status of all litigation under the latter's cognizance, including all proposed Department of the Navy appeal recommendations to the Department of Justice. In appropriate cases designated by the Secretary as "of major and continuing concern to the Secretary," he will share responsibility with the Judge Advocate General for liaison with the Attorney General and Department of Justice. The General Counsel shall also have responsibility for liaison with the Attorney General and Department of Justice in connection with matters arising under subparagraphs 3.b. through 3.e. of this Instruction. He shall also have responsibility for liaison with other departments and agencies of the government in appropriate cases.

4. Organization of the Office of the General Counsel

a. The General Counsel of the Navy is the head of the Office of the General Counsel of the Navy.

b. That portion of the Office of the General Counsel organizationally within the Office of the Secretary of the Navy is designated the Central Office. The Central Office includes the Contract Appeals Division, and the Office of Civilian Personnel Law (formerly, the Office of Counsel, OCP). The Office of the General Counsel also includes the Patent Counsel for the Navy and the Office of Counsel for the Commandant of the Marine Corps, the Military Sealift Command, the Office of Naval Research, the Office of the Comptroller of the Navy, the Naval Data Automation Command, and the Systems Commands of the Naval Material Command. It

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shall also include such Offices of Counsel for Navy and Marine Corps field activities and such Branch or Regional Offices as have been or may hereafter be established.

c. The staff of the Central Office shall include (1) no more than three Deputy General Counsels who shall be appointed by the General Counsel subject to the approval of the Secretary; (2) such additional civilian attorneys as the General Counsel may be authorized to appoint; and (3) such judge advocates as may be assigned to the immediate staff of the Secretary. The staff of the Central Office, as well as all Offices of Counsel included within the Office of the General Counsel, shall assist the General Counsel in the execution of his duties. The staff shall also assist the General Counsel in coordination with the Judge Advocate General in those areas of responsibility assigned to the Judge Advocate General by statute or by the Secretary.

d. The General Counsel shall furnish or arrange to furnish legal services for which the General Counsel is assigned responsibility by paragraph 3. above to other Navy and Marine Corps activities when it is mutually agreed such services are required. The Office of the General Counsel shall include any office established under this paragraph.

5. Counsel for the Marine Corps, Offices and Commands. For the Commandant of the Marine Corps and each naval activity specifically listed in paragraph 4, there shall be a single Office of Counsel which shall be responsible for providing in the Marine Corps and in such naval activity all legal services for which the General Counsel is assigned responsibility by paragraph 3. above. Each such Office of Counsel shall be headed by a Counsel who shall be appointed by the Secretary of the Navy upon the joint recommendation of the General Counsel and the Commandant of the Marine Corps or the head of the naval activity concerned, as appropriate. Such Counsel shall report directly to the Commandant of the Marine Corps or the head of such naval activity, as appropriate, and shall also report, via the General Counsel, to the Secretary of the Navy.

6. Patent Counsel for the Navy. Notwithstanding the provisions of paragraph 5. above, there shall be in the Office of Naval Research, a Patent Counsel for the Navy who shall be responsible for providing throughout the Department of the Navy legal services relating to patent

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matters as set forth in subparagraph 3.b.(5) above and who shall assist the General Counsel in the execution of his responsibilities under subparagraph 3.c. above. The Patent Counsel for the Navy shall be appointed by the Secretary of the Navy upon the joint recommendation of the General Counsel and the Chief of Naval Research. The Patent Counsel for the Navy shall report to the Chief of Naval Research and shall also report, via the General Counsel, to the Secretary of the Navy.

7. Lawyers in the Office of the General Counsel. The lawyers in the Office of Counsel for the Commandant of the Marine Corps and for each naval activity, including their respective field lawyers, shall be selected by the General Counsel subject to the approval of the Commandant of the Marine Corps or of the head of such naval activity, as appropriate. All patent lawyers shall be selected by the General Counsel subject to the approval of the Chief of Naval Research. The General Counsel shall prepare, or assign responsibility for the preparation of, performance rating reports for all lawyers in the Office of the General Counsel, and shall review all such reports. All personnel actions involving lawyers in the Office of the General Counsel, such as changes in grade, transfers or terminations of services, and the establishment, revision or elimination of position descriptions, shall be subject to the approval of the General Counsel. The General Counsel, with the approval of the Secretary of the Navy, may establish Regional or Branch offices of the Office of the General Counsel; the General Counsel shall select and designate the Counsel and other lawyers therein.

8. Uniformity, integration, supervision. The legal services to be rendered by patent lawyers reporting to the Patent Counsel of the Navy, the Offices of Counsel listed in paragraph 4, the Counsel for Branch or Regional Offices, and all other lawyers in the Office of the General Counsel, both departmental and in the field, shall be integrated, coordinated, and supervised by the General Counsel. The General Counsel shall also be responsible for achieving and maintaining, so far as practicable, uniformity in the application of legal principles with regard to matters for which the General Counsel is assigned responsibility by paragraph 3. above.

9. Legal Review


a. Legal documents. Contracts and amendments thereto, modifications thereof, and other documents pertaining to matters for which the General Counsel is assigned responsibility by paragraph 3. above, shall be submitted to the

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appropriate lawyers of the Office of the General Counsel for an opinion as to form and legality and for any additional pertinent comment or advice prior to execution.

b. Correspondence addressed to the Comptroller General and the General Accounting Office. Upon completion of all echelons of clearance, correspondence with the Comptroller General of the United States or the General Accounting Office regarding matters covered by paragraph 3 above shall be reviewed by the cognizant Office of Counsel, or the appropriate lawyer of the Office of the General Counsel.

10. Acquisition of Outside Legal Services. Except when obtained pursuant to 10 U.S.C. 1037 and SECNAVINST 5820.4D without Secretarial action, legal services within or relating to the Department of the Navy shall not be obtained by any naval activity or Marine activity from any source outside the Department of the Navy without the concurrence and the assistance, as appropriate, of the General Counsel.


W. Graham Claytor, Jr.
Secretary of the Navy

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